



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced:	2/16/06	Bill No:	SB 1317
Tax:	Property	Author:	Torlakson
Related Bills:	AB 458 AB 737		

BILL SUMMARY

This bill would change the allocation of property tax revenues derived from state assessed qualified electric generation facilities, substation facilities, and transmission lines newly constructed by a public utility after January 1, 2007.

ANALYSIS

Current Law

Under current law incremental growth in property tax revenues from state assessed property, except railroads, occurring post 1987 is shared on a "countywide" basis. Additional revenues could be the result of increased property values, new construction or acquisitions of property. Post-1987 incremental growth revenues are distributed to nearly all governmental agencies and school entities in the county in proportion to each entity's share of the county's total ad valorem property tax revenues in the prior year. Under the countywide system all entities receive a share in the revenues regardless of whether any of the value growth actually occurred within its jurisdictional boundaries.

Existing law provides a few exceptions to this revenue allocation procedure for some state assessed properties:

- For three specific state assessed properties newly constructed after 1987, the revenue from those properties is allocated only to certain governmental agencies, as specified, in the tax rate area where the property is located (i.e., situs based) rather than allocating its incremental growth on a countywide basis. (See *Revenue & Taxation Code* §100(i), (j) and (k).)
- Tax revenue from certain state assessed electrical generation facilities that are not owned by a rate-regulated public utility (i.e., a "merchant power plants") are allocated only to those governmental agencies and school entities in the tax rate area where the facility is located (i.e., situs based). (See *Revenue and Taxation Code* §100.9)

Under existing law, the revenues from the property which is the subject of this bill would be allocated using the countywide system. The special provisions for electrical generation facilities in Section 100.9 would not apply since the property is owned by a rate-regulated public utility rather than a merchant power plant provider. A merchant power plant generates electricity for sale in the open wholesale power market, whereas a power plant owned by a public utility generally generates electricity for its own customers use.

Proposed Law

This bill would add Section 100.95 to the Revenue and Taxation Code to change the allocation of property tax revenues from new public-utility owned state assessed

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“qualified property” that is newly constructed after January 1, 2007. The proposed allocation is detailed below.

“Qualified property” means all plant and associated equipment, including substation facilities and fee-owned land and easements, placed in service by the public utility on or after January 1, 2007, and related to the following:

- Electric generation facilities that have a nameplate generating capacity of 40 megawatts or more.
- Electrical substation facilities that meet either of the following conditions.
 - The high-side voltage of the facility’s transformer is 50,000 volts or more.
 - The substation facilities are operated at 50,000 volts or more.
- Electric transmission line facilities of 200,000 volts or more.

“Qualified property” does not include additions, modifications, reconductoring, or equivalent replacements to the plant and associated equipment made after the plant and associated equipment are placed in service. It also does not extend to property subject to Section 100(k).

The revenues would be allocated to the county government and school entities under the countywide system as noted below.

Governmental Entity	Tax Rate	Allocation	Change in Allocation
County	Countywide	Countywide	No Change
School Entities	Countywide	Countywide	No Change

After this allocation is made, the balance of the revenues would be allocated to three jurisdictions in the specific tax rate area where the property is located (city, fire, and water) as noted below.

Governmental Entity	Tax Rate	Allocation	Percentage of Balance	Change in Allocation
City (or county if project situs is in an unincorporated area)	Countywide	Situs based	80%	Increase
Fire Service Provider	Countywide	Situs based	10%	Increase
Water Service Provider	Countywide	Situs based	10%	Increase
All other governmental entities and special districts in the county – including those that would have received a share under the countywide method and those that are specifically in the tax rate area where the project is located		None	0%	Decrease – No revenue allocation

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In General

Property tax revenues derived from state assessed property differ from that of locally assessed property:

Locally Assessed. Generally, property tax revenues derived from locally assessed property accrue only to those governmental agencies and school entities with jurisdiction in the tax rate area where the property is located (i.e., “situs based”).

State Assessed. For state assessed property, a certain amount of the incremental growth in revenues after 1987 is placed in a pool and shared with nearly all governmental agencies in a county according to a statutory formula. Specifically,

- Each local agency has a tax base (hereafter called the “unitary base”) for any jurisdiction which had state assessed property sited within its boundaries in the 1987-88 fiscal year.
- Thereafter, the formula annually increases each local agency’s “unitary base” by two percent (provided revenues are sufficient).
- If there is any property tax revenue remaining after each local agency has been distributed its “unitary base” plus two percent, then this surplus revenue, referred to as “incremental growth,” is distributed to all agencies in the county. Agencies with unitary bases also receive a share of the incremental growth.
- “Incremental growth” revenues are shared with all jurisdictions in the county (i.e., countywide distribution) in proportion to the entity’s share of total property tax revenues.

Legislation has been enacted to establish situs-based revenue allocations for certain stand-alone state assessed properties that were newly constructed after the countywide system was established. Hence, the property tax revenues derived from these proposed projects (only two of the three projects were subsequently constructed) would go to the jurisdictions in the tax rate area where the project was to be sited rather than being shared with all jurisdictions located in the county as “incremental growth.” In addition, there is a fourth exception which applies to a special category of property: state assessed electrical generation facilities that are not owned by a public utility i.e., “merchant plants.”

Revenue allocation procedures for state and local property are summarized in the following table:

Property Type	Revenue Allocation	Revenue and Taxation Code	Legislation
Locally Assessed Property	Situs Based	Section 96 et. seq.	AB 8 (1979)
State Assessed Property – Special exceptions noted below	Pre-1987 values: Situs Based Incremental Growth: Countywide	Section 100	AB 2890 (1986)
Merchant Power Plants 50 MW or more Location: Statewide	Situs Based	Section 100.9	AB 81 (2002)
Pacific Bell (Computer Center) Location: City of Fairfield	Situs Based – as specified	Section 100(i)	AB 454 (1987)
PG&E (Education and Training Center) Location: City of Livermore	Situs Based – as specified	Section 100(j)	SB 53 (1991)
SDG&E (Power Plant -Never Constructed) Location: City of Chula Vista	Situs Based – as specified	Section 100(k)	AB 1108 (1993)
SDG&E (Power Plant - Under Construction) Location: City of Escondido	Situs Based – as specified	Section 100(k)	AB 2558 (2004)

The historical rationale for the countywide system. The countywide system was established to ease the administrative burdens on state assesses, the state, and counties. Detailed record keeping was necessary to report property holdings, allocate property value, and allocate property tax revenue by the fine detail of the tax rate area. AB 2890 by Assembly Member Hannigan in 1986 created the countywide system. According to the author's press release on this bill, the Assembly Revenue and Taxation Committee had held an interim hearing in the fall of 1985 on property tax issues that resulted in a number of suggested reforms subsequently included in AB 2890. The press release summarizes the various reforms and, with respect to the new revenue allocation system, it describes the proposed new system as follows:

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Distribute the value of state assessed property to counties on a countywide basis, and distribute the revenue to local jurisdictions in proportion to their local assessed value.

Rationale: This will eliminate a very burdensome administrative job for the Board of Equalization and for taxpayers – the placing of state assessed value into tax rate areas. No jurisdiction will lose any money because the AB 8 distribution formula (and the specific provisions of this legislation) will guarantee all taxing jurisdictions that they will get the same amount of revenue that they got in the prior year from state assessees plus an amount for growth.

In 1987, an Assembly Revenue and Taxation Committee analysis on a related measure, AB 454, provided additional insight into the rationale for establishing the countywide system. That analysis noted:

In AB 2890 (Hannigan) of 1986, a formula distribution of state assessed unitary values was adopted. The justification for this provision were (1) that state assessed unitary property is assessed on a company basis, not on a location basis, and a situs allocation is not consistent with the theory and practice with state assessed valuation procedures and (2) that the attempt to break apart a unitary assessment for the purpose of a situs assessment was causing taxpayers and the State to spend hundreds of thousands of dollars for a bureaucratic purpose that provided no social purpose other than to provide jobs to those doing the work.

Background

After electrical deregulation, legislation was enacted to change the revenue allocation of power plants divested by public utilities, as well as those newly constructed by merchant power plant owners, to provide for situs based revenue allocation. AB 81 (Ch. 57, Stats. 2002)

COMMENTS

1. **Sponsor and purpose.** Southern California Edison is sponsoring this bill to provide a financial incentive for cities to support the construction of these electrical generation facilities and substations within their boundaries by ensuring a greater share of the resulting property tax revenues.
2. **The allocation of property tax revenues from state assessed power plants differ depending upon whether they are owned by a merchant power provider or a rate-regulated public utility:**
 - **Merchant Plants: Situs Based.** Pursuant to Section 100.9, the revenue from state assessed electrical generation facilities are allocated only to the governmental agencies and school entities in the tax rate area where the property is located.
 - **Rate-Regulated Public Utility Owned Power Plants: Countywide System.** Any increase in property tax revenue associated with the construction or acquisition of a new power plant if owned by a public utility is treated as incremental growth and shared countywide (except for the power plant to be constructed in the City of Escondido, an exception created last year by AB 2558).

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3. **These plants or other facilities will be owned by rate-regulated electric public utilities rather than merchant power providers; therefore, the tax revenues will be allocated under the countywide system.** Without this bill, the additional property tax revenues derived from these new plants would be sprinkled across the county. Under current law, if a new power plant, substation, or transmission line is built in the city limits, all cities in that county will receive some share of the revenues from the plant. The city where the power plant is located does not receive any more revenue than if the plant was located in some other city in the county – even though the city is providing services to the property. Further, all special districts operating in the county will receive some minor share – even those that provide no services to the property.
4. **Example.** For property located in Sacramento County, 18 percent of property tax revenues are allocated to the county and 52 percent are allocated to school entities. This amounts to 70 percent of the total revenue. This bill would not change the distribution of this 70 percent, but would modify the distribution of the remaining 30 percent as follows: 80 percent to the City of Sacramento, 10 percent to the fire service provider, and 10 percent to the water provider. No other city in Sacramento County (Folsom, Elk Grove, etc) would receive any share nor would any other special district in Sacramento County (including those that may operate in the tax rate area where the property is sited).
5. **This bill creates a unique blending of the situs and countywide systems.** This would require special handling by the Board and county auditors. With respect to the functions of the Board, this bill would require that, after the Board annually determines the value of all of the property owned by the public utility, the portion of value that is allocated to the qualified property be identified and segregated. The Board must then identify the properties to the county auditor. The Board's roll database is only capable of identifying property for purposes of revenue allocation to one of two tax rate areas: (the countywide tax rate area or the specific local tax rate area where the property is located). Therefore, this bill would require the Board's computer systems to be modified to properly identify the property to the county auditor.
6. **This bill includes easements as qualified property.** This bill calls for easements to be included as qualified property. The Board does not currently require electric easements to be mapped to indicate tax rate areas because of the burden on the assesses and staff. This would result in additional processing for both state assesses and the board.
7. **Suggested Technical Amendment.** On page 2, line 3, the following amendment is suggested, 20067-08.

COST ESTIMATE

This bill would require an augmentation of the Board's roll database. This will result in a need for more extensive programming to modify our automated systems. On a related note, county auditors would then need to modify their systems to accept this "new" data. There are with potentially 58 different computer systems throughout the state that must be modified.

A detailed cost estimate related to the Board's cost is pending.

REVENUE ESTIMATE

This bill would not change the amount of property tax revenue ultimately derived from these properties. Rather, it changes the distribution of those property tax revenues. Property tax revenue allocation is a zero sum game creating winners and losers. This bill would ensure the status quo for the county where the property is located and all the school entities within the county.

While the Board does not have detailed data on the distribution of revenues from state assessed properties, such detail could be obtained from the local county auditor, provided that the exact location of the future new construction is known. To determine which jurisdictions would be winners and which would be losers, one must compare the current allocation of revenues from the countywide pool for the particular county where the property is located to the allocation of revenues that would be required under this bill.

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